

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102 3298



May 30, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. Rm 222
Washington, D.C. 20554

RECEIVED
MAY 31 1996
FBI

Re: In the Matter of Allocation of Costs Associated
with Local Exchange Carrier Provision of Video
Programming Services
CC Docket No. 96-112

Dear Mr. Caton:

Please find enclosed for filing an original plus eleven copies of the COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA in the above-referenced docket.

Also enclosed is an additional copy of this document. Please file-stamp this copy and return it to me in the enclosed, self-addressed, postage pre-paid envelope.

Very truly yours,

Helen M. Mickiewicz

Helen M. Mickiewicz
Principal Counsel

HMM:dd

Enclosures

OH

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of)

)
Allocation of Costs Associated with)
Local Exchange Carrier Provision of)
Video Programming Services)

CC Docket No. 96-112

COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA
AND THE PUBLIC UTILITIES COMMISSION OF THE STATE
OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING

I. INTRODUCTION AND SUMMARY

The People of the State of California and the Public Utilities Commission of the State of California (California or CPUC) respectfully submit these comments to the Federal Communications Commission (FCC or Commission) on the Notice of Proposed Rulemaking (NPRM) regarding the cost allocation rules for local exchange carriers (LECs) providing video programming services.

In the NPRM, the Commission set forth several goals for this rulemaking, which is proceeding against the backdrop of the pro-competitive and de-regulatory national policy framework contemplated by the Telecommunications Act of 1996 (hereafter, the 1996 Act). The FCC identifies the following goals: 1) to give effect to those provisions of the 1996 Act intended to facilitate competitive telecommunications offerings, 2) to give effect to provisions of the 1996 Act pertaining to LEC entry into the video distribution and programming services markets, 3) to

ensure that telephone ratepayers pay just and reasonable rates, and 4) to ensure that incumbent LECs do not use services for which customers have no competitive alternative to subsidize competitive services.

California's brief comments pertain to the third and fourth of the Commission's articulated goals. California urges the FCC to treat this NPRM as an interim step towards adopting final cost allocation rules for incumbent LECs providing video distribution and programming services. Until the Commission can further study the issues addressed by the NPRM, California recommends use of an interim fixed allocator of a minimum of 50% of loop costs to video and nonregulated services. California also recommends that the Commission combine the interim allocator with a cap on fixed loop costs at their present level.

II. COMMENTS

California agrees with the goal of the 1996 Act to ensure that that incumbent LECs do not use services that are not competitive to subsidize services that are subject to competition.¹ California also agrees that any cost allocation system must be flexible and adaptable so as to foster emergence of new technologies but at the same time, guarantee that telephone ratepayers do not bear the costs or risks of developing or maintaining competitive services. The CPUC believes that relying on the principle of cost causation as a basis for cost

1. See § 254(k).

allocations guards against the possibility of captive ratepayers subsidizing competitive services. This is accomplished by allocating the hybrid network's costs to the group(s) of customers who realize the benefits of an advanced network.

Residential and small business telephone ratepayers should be indifferent to the technology used to offer basic telephone service. Such indifference is best achieved by ensuring that basic telephone service rates do not increase solely as a result of the deployment of new technologies. Conversely, such customer indifference is maintained when service quality does not decrease as a result of the type of technology deployed.

To date, California has had relatively limited experience with deployment of the particular new technologies addressed in the NPRM. Given the limited time frame for providing comments on this NPRM, California does not have any recommendations at this time as to a final cost methodology for allocating the costs of the hybrid network between the various unregulated and regulated functions. In principle, California believes that any allocation system must assign costs to the appropriate class of customers. Thus, a telephone ratepayer who does not obtain video services via an incumbent LEC's network should not pay for the deployment of any technologies or network infrastructure designed for services requiring capacity far in excess of the needs for providing basic telephone service.

The issues addressed in this NPRM are extremely important, especially in light of the transition from monopoly to competitive local exchange markets. California believes these issues require in-depth analysis, and suggests that this

proceeding be considered as an interim step in developing a comprehensive process for allocating costs between regulated and video and other nonregulated activities.

California further recommends that the Commission adopt, on an interim basis, a fixed allocator of a minimum of 50% of loop costs to video and other nonregulated services. The CPUC also recommends that the 50% fixed allocator be coupled with a cap on the amount allocated to telephony. The cap should be based on the current level of costs assigned to the local loop, adjusted annually by applying a modified price cap formula to the total cost per loop. This interim method should be used pending further analysis and review, after which the Commission will adopt a final allocation process.

This interim allocation process is appropriate because it addresses the additional capacity and usage associated with providing video programming and other nonregulated services. It would allow telephone ratepayers to realize some benefit from economies of scope that should exist under the hybrid system. The interim approach also would provide a safeguard to protect basic telephone ratepayers from bearing the costs and risks associated with nonregulated activities until enough experience with the hybrid system is gained to prescribe a final cost allocation process. Finally, the interim process protects ratepayers from unjust rate increases that otherwise could result from allocation factors reflecting short-term usage of the hybrid network, which will be predominantly by telephony-based services, and until video and other nonregulated services develop and mature.

III. CONCLUSION

California recommends that the Commission treat this NPRM as an interim step towards adopting final cost allocation rules for incumbent LECs providing video distribution and programming services. In the interim, California recommends that the Commission adopt a fixed allocator of a minimum of 50% of loop costs allocated to video and nonregulated services. The interim allocator should be coupled with a cap on fixed loop costs at their present level.

Dated: May 30, 1996

PETER ARTH, JR.
EDWARD W. O'NEILL
HELEN M. MICKIEWICZ

By:

Helen M. Mickiewicz
Helen M. Mickiewicz

505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-1319

Attorneys for the People of
the State of California and
the Public Utilities
Commission of the State
of California

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has this day been served upon all known parties of record herein.

Executed at San Francisco, California, this 30th day of May, 1996.


Helen M. Mickiewicz

Counsel for the People of the
State of California and the
Public Utilities Commission of
the State of California

STANDING SERVICE LIST

This is a list of parties, in addition to the normal FCC filing requirements, who should receive copies of all our FCC filings in connection with the 1996 Telecommunications Act.

Jeffrey Sinsheimer
California Cable Television Association
P.O. Box 11080
Oakland, CA 94611

Ginger Taylor, Staff Counsel
Dept. of Consumer Affairs
400 "R" Street, Ste. 3090
Sacramento, CA 95814

Mark Savage
Public Advocates
1535 Mission Street
San Francisco, CA 94103

Rob Vandiver
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Penny Rubin
New York Public Service Commission
Three Empire Plaza
Albany, NY 12223

Phyllis Whitten
SPRINT
1850 "M" St., STE. 1110
Washington, D.C. 20036

Paul Rodgers
James Bradford Ramsay
NARUC
1102 ICC Bldg.
P.O. Box 684
Washington, D.C. 20044

Randy Cape
Pacific Bell
140 New Montgomery St., Room 1525
San Francisco, CA 94105

Whitney Hatch
GTE Service Corporation
1850 "M" St., NW, Ste. 1200
Washington, D.C. 20036

MCI Telecommunications Corp.
1801 Pennsylvania Ave. NW
Washington, D.C. 20006

David F. Brown
Southwestern Bell Telephone Company
175 E. Houston, Room 1250
San Antonio, TX 78205

Myra Karegianes
Illinois Commerce Commission
160 North La Salle St., Ste. C-800
Chicago, IL 60601